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City of Virginia Beach



OFFICE OF THE CHIEF OF POLICE
DEPARTMENT OF POLICE
(757) 427-4141

MUNICIPAL CENTER
BUILDING 11
2509 PRINCESS ANNE ROAD
VIRGINIA BEACH, VIRGINIA 23456-9064

April 9, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Secretary Dortch:

RE: **RM-10865/DA No. 04-700 --**
Comments on the CALEA Petition for Rulemaking

Virginia Beach is the 38th largest city in the United States with a population of 425,000. As Chief of the Virginia Beach Police Department, I am tasked with protecting the members of my community.

The Joint Petition ("Petition") filed by the U.S. Department of Justice ("DOJ"), Federal Bureau of Investigation ("FBI"), and U.S. Drug Enforcement Administration ("DEA") on March 10, 2004, before the Federal Communications Commission ("FCC") requests that the FCC resolve, on an expedited basis, various critically important issues arising from the implementation of the Communications Assistance for Law Enforcement Act ("CALEA"). I strongly support that Petition.

Congress's intent in enacting CALEA in 1994 was to ensure that law enforcement has the ability to conduct authorized wiretaps in the future as technologies change. It is imperative, and consistent with that intent, that the FCC start a rulemaking proceeding and adopt the rules proposed by the DOJ, FBI, and DEA in the above Petition. Since 1994, many new communications technologies, currently used by millions of our citizens, have arisen, including broadband Internet access, voice over IP telephony ("VoIP"), and other packet mode services. These pose a great challenge to state and local law enforcement in that many providers of these communications services have failed to voluntarily adopt currently available CALEA intercept solutions. Law enforcement has been frustrated in its attempts to implement a lawfully authorized surveillance intercepts. It is abundantly clear that voluntary industry compliance with CALEA does not work.

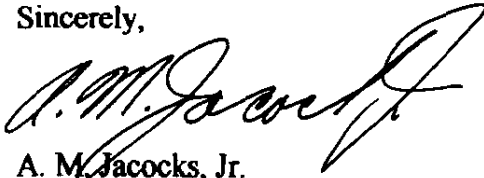
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Additionally, the City of Virginia Beach does not have the financial or personnel resources to develop costly *ad hoc* surveillance solutions for each new communications service. Nor should we have to under the current law. For all equipment, services, and facilities deployed after January 1, 1995, Congress, through CALEA, expressly passed the burden of designing and paying for such surveillance solutions onto the telecommunications carriers themselves.

Given the importance of the issues discussed above, I have attached the resolution from the Major Cities Chiefs Association. It is important that the FCC promptly act upon the Petition and begin a rulemaking proceeding adopting the DOJ's, DEA's and FBI's proposed rules.

Sincerely,

A handwritten signature in black ink, appearing to read "A. M. Jacobs, Jr.", written in a cursive style.

A. M. Jacobs, Jr.
Chief of Police

AMJjr:mjw

Attachment



MAJOR CITIES CHIEFS ASSOCIATION

201 N Charles Street – Suite 310 – Baltimore, Maryland 21201
410-433-8909 - 410-433-9010

**MAJOR CITIES CHIEFS
MAJOR COUNTY SHERIFFS**

JOINT RESOLUTION CALLING FOR NEW CALEA LEGISLATION

- ♦ WHEREAS Congress has recognized that court-ordered intercepts are an essential tool for law enforcement agencies; and
- ♦ WHEREAS Police Departments and Sheriffs' Offices conduct the majority of court-approved intercepts in the United States; and
- ♦ WHEREAS the Communications Assistance for Law Enforcement Act (CALEA) was enacted by Congress in 1994; and
- ♦ WHEREAS new technologies have been introduced over the past ten years that now thwart the efforts of law enforcement; and
- ♦ WHEREAS the purposes of CALEA are essential to Homeland Security and have yet to be realized; and
- ♦ WHEREAS the Major Cities Chiefs Association seeks to strengthen law enforcement services and ensure the availability of modern electronic intercept capabilities;

**NOW, THEREFORE, LET IT BE RESOLVED THAT THE MAJOR CITIES CHIEFS AND
MAJOR COUNTY SHERIFFS ASSOCIATIONS DO HEREBY JOINTLY**

- ♦ COMMEND the Attorney General and the FBI for their assistance to State and local law enforcement; and
- ♦ REQUEST FROM THE FBI a formal report on the use of telecommunications by criminals and terrorists, and the status of CALEA implementation; and
- ♦ RECOMMEND TO CONGRESS that the Federal Communications Commission (FCC) should be required to consider the needs of Homeland Security, granted powers to require immediate compliance with CALEA and directed to refrain from approval of further extensions; and
- ♦ RECOMMEND TO CONGRESS that new legislation should be introduced to address the requirements of modern technology and to provide law enforcement agencies with the necessary tools to carry out the intent of CALEA.

Adopted by:

Major Cities Chiefs
February 10, 2004
Dallas, Texas